

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Mills	Team: Team # 3	CCRB Case #: 201410423	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 10/10/2014 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 19	18 Mo. SOL 4/10/2016	EO SOL 4/10/2016	
Date/Time CV Reported Fri, 10/10/2014 11:43 PM	CV Reported At: IAB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 10/14/2014 9:23 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Peter Guiheen	12726	901648	019 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Vandenburg	04196	952312	019 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Peter Guiheen	Discourtesy: PO Peter Guiheen spoke rudely to § 87(2)(b)	§ 87(2)(b)
B.POM Peter Guiheen	Abuse: PO Peter Guiheen threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.POM Peter Guiheen	Force: PO Peter Guiheen used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Peter Guiheen	Abuse: PO Peter Guiheen refused to provide his name to § 87(2)(b)	§ 87(2)(b)

Case Summary

At approximately 6:30 p.m. on October 10, 2014, § 87(2)(b) was walking through the lobby of § 87(2)(b). She observed PO Peter Guiheen and PO Robert Vandenberg of the 19th Precinct in the lobby with another resident, § 87(2)(b). The officers recognized her from previous interactions, and PO Guiheen allegedly commented to PO Vandenberg “Oh, there go the drunk one again.” (**Allegation A**) § 87(2)(b) became upset and approached the officers, telling PO Guiheen to watch his mouth. PO Guiheen told her that she could be arrested. (**Allegation B**) PO Guiheen then grabbed § 87(2)(b) arm and pulled her, but she pulled away, causing him to accidentally strike her in the chest. (**Allegation C**) The officers left, and when they returned, § 87(2)(b) asked PO Guiheen for his name, but he ignored her. (**Allegation D**)

The investigation was initially assigned to Investigator Rachel Buhner. On March 19, 2015, the case was reassigned to the undersigned investigator § 87(2)(g).

Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation as an alternative to resolve her complaint.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

A request was placed with the New York City Comptroller’s Office for any Notices of Claim filed by § 87(2)(b) and the results will be added to the case file when they are received.

Civilian and Officer CCRB Histories

§ 87(2)(b) has filed eight other complaints with the CCRB, § 87(2)(b)

PO Guiheen has been a member of the service for 22 years and there are no substantiated allegations against him. § 87(2)(g)

Encl. 2a)

Potential Issues

§ 87(2)(b) provided contact information for a man named § 87(2)(b) who had access to the building’s video footage. However, § 87(2)(b) stated that he reviewed the building’s footage and the incident was not captured on camera.

Though a witness, § 87(2)(b) was present at the beginning of the incident and may have witnessed Allegation A, he did not have a telephone number, and the investigation was unable to get in contact with him. He was not present for the remaining allegations.

Civilian Statements

Complainant/Victim

§ 87(2)(b) (Encl. 5a-5b)

- § 87(2)(b) is a § 87(2)(b) year old black woman.
- § 87(2)(b) was passing through the lobby of her building when she overheard PO Guiheen state “Oh, there go the drunk one again,” referring to her.
- § 87(2)(b) approached and told PO Guiheen to watch his mouth.
- PO Guiheen told her “Go upstairs to your room or I’m going to lock you up.”
- PO Guiheen grabbed § 87(2)(b) jacket by her upper arm with both hands.
- § 87(2)(b) pulled away, causing PO Guiheen to accidentally strike her in the chest.
- § 87(2)(b) asked PO Guiheen for his name but he ignored her request.

Subject Officer

PO PETER GUIHEEN (Encl. 7a-7b)

- PO Guiheen was in the lobby, responding to an unrelated robbery, when he saw § 87(2)(b) walk past approximately fifteen feet away. § 87(2)(b) was walking “funny,” though PO Guiheen later determined that she was not intoxicated, and he thought her appearance may have been caused by medication.
- PO Guiheen commented to PO Vandenburg that “there she is, she looks a little drunk again.”
- In response, § 87(2)(b) approached PO Guiheen, stopped two feet away, and began yelling that he had no right to say she was intoxicated.
- PO Guiheen told her that if she did not calm down and behave rationally, he would place her under arrest for disorderly conduct.
- PO Guiheen then went upstairs. On his way up, he may have made physical contact with § 87(2)(b) in order to get around her, but he did not recall grabbing her jacket or striking her chest.
- PO Guiheen also did not recall if § 87(2)(b) requested his name.

Witness Officer

PO ROBERT VANDENBURG (Encl. 9a-9b)

- PO Vandenburg was in the lobby when § 87(2)(b) walked past, appearing to be off balance.
- PO Guiheen commented that “she looks drunk again.”
- § 87(2)(b) began screaming at PO Guiheen, getting close to his face.
- PO Guiheen told her multiple times to leave, but she did not do so.
- PO Guiheen “kind of grabbed her” and attempted to push her away for his safety and comfort.
- During PO Vandenburg’s statement, Kate Kilduff, his representative from the Patrolmen’s Benevolent Association, interjected and asked him to clarify, and then he stated he could not recall specifically whether PO Guiheen had grabbed § 87(2)(b)’s arm or pushed her arm to move her aside.
- PO Vandenburg did not recall if PO Guiheen ever threatened to arrest § 87(2)(b).
- § 87(2)(b) never requested PO Guiheen’s name.

Findings and Recommendations

Allegation A – Discourtesy: PO Peter Guiheen spoke rudely to § 87(2)(b)

It is undisputed that, while § 87(2)(b) was walking through the lobby, PO Guiheen classified § 87(2)(b) as “drunk” loudly enough for her to hear. § 87(2)(b) PO Guiheen and § 87(2)(b) had interacted on a previous occasion, and PO Guiheen said he determined that § 87(2)(b) was not drunk, and that her appearance might have been a result of her medication. PO Guiheen did not know § 87(2)(b)’s specific condition or medications, and § 87(2)(b) did not disclose those details.

Patrol Guide Procedure 203-09 requires officers to be courteous and respectful. (Encl. 1b)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Peter Guiheen threatened to arrest § 87(2)(b)

It is undisputed that PO Guiheen told § 87(2)(b) that she could be arrested. § 87(2)(g) § 87(2)(b) alleged that she told PO Guiheen to watch his mouth, and he responded “go upstairs to your room or I’m going to lock you up.” PO Guiheen stated that § 87(2)(b) was yelling at him, and he told her that if she did not calm down she could be arrested for disorderly conduct. However, PO Guiheen stated that he ultimately determined that disorderly conduct charges were not warranted because there were no other residents present and no crowd had gathered.

The New York State Penal Law states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, she engages in violent, tumultuous, or threatening behavior; makes unreasonable noise; uses abusive or obscene language in a public place; disturbs a lawful assembly; obstructs traffic; refuses to comply with a lawful order to disperse; or creates a hazardous condition by any act which serves no legitimate purpose. (Encl. 1a)

§ 87(2)(g)

Allegation C – Force: PO Peter Guiheen used physical force against § 87(2)(b)

§ 87(2)(g) She alleged that he grabbed her jacket on her upper arm with both hands and began to move her, and then she pulled away, causing him to accidentally strike her in the chest. PO Guiheen stated that he did not recall grabbing her that way, though his body may have made contact with hers as he moved around her to walk up the stairs. PO Guiheen stated that § 87(2)(b) was standing approximately two feet away and did not make any motions towards him. PO Vandenburg initially corroborated § 87(2)(b)'s allegation. He stated that PO Guiheen “kind of grabbed her” and “was trying to push her away” “for his safety and his comfort zone.” During his CCRB interview, PO Vandenburg demonstrated the grab, and Investigator Buhner stated for the record that he appeared to be demonstrating PO Guiheen grabbing § 87(2)(b) upper arm. But, PO Vandenburg stated that he was not sure exactly where PO Guiheen grabbed § 87(2)(b). However, after his representative from the Patrolmen’s Benevolent Associate, Kate Kilduff, interject and asked him to clarify, he stated that “I don’t recall if he grabbed, I just recall he was trying to separate” her.

Patrol Guide Procedure 203-11 states that officers must use the minimal necessary force to effect an arrest. (Encl. 1c)

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Peter Guiheen refused to provide his name to § 87(2)(b)

§ 87(2)(g) In her initial complaint, § 87(2)(b) stated that she requested PO Guiheen’s name and he responded “I’m not telling you my name.” In her sworn statement § 87(2)(b) stated that PO Guiheen ignored her

request. PO Guiheen did not recall § 87(2)(b) requesting his name and denied ignoring a request for his name. PO Vandenburg did not recall if § 87(2)(b) requested PO Guiheen's name.

§ 87(2)(g)

Team:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date